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9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA
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13 **NEVADA IRRIGATION DISTRICT,**
14 Plaintiff,
15
16 **v.**
17 **ERIC OPPENHEIMER, in his official**
18 **capacity as Executive Director of the**
California State Water Resources Control
Board,
19 Defendant.

2:21-cv-00851-DJC-CKD

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**STIPULATION AND ORDER TO
EXTEND TIME FOR DEFENDANT TO
RESPOND TO COMPLAINT**

Judge: Hon. Daniel J. Calabretta

Action Filed: 12/04/2020

STIPULATION

WHEREAS on December 4, 2020, Plaintiff Nevada Irrigation District (NID) filed its Complaint;

WHEREAS on September 22, 2021, Defendants Eileen Sobeck, et al., filed a Motion to Dismiss, or, in the alternative, Motion to Stay Plaintiff's Complaint on the grounds that this Court lacks jurisdiction to hear NID's claims because NID's claims are not ripe, because NID lacks Article III standing, and because the Eleventh Amendment immunizes Defendants from suit in federal court (ECF No. 37);

WHEREAS on December 6, 2023, the Court granted the motion in part and denied it in part (ECF No. 72) granting NID leave to amend within 30 days of the issuance of that Order;

WHEREAS NID filed a First Amended Complaint on January 5, 2024, which, among other things, substituted the State Water Resources Control Board's new Executive Director Eric Oppenheimer for the now-retired former Executive Director Eileen Sobeck;

WHEREAS pursuant to rule 144 of the Local Rules the court approved the parties' first stipulation extending the deadline for Defendant's responsive pleading to February 2, 2024;

WHEREAS Defendant is evaluating whether to file a motion to dismiss the First Amended Complaint;

WHEREAS the State Water Resources Control Board (State Water Board) intends to take public action on NID's administrative petition for reconsideration filed September 10, 2020, in the next 60-90 days, which Defendant asserts may moot some or all of the issues when finalized;

WHEREAS NID's agreement to the extension of Defendant's deadline to file a responsive pleading to the First Amended Complaint shall not be construed as agreement that the State Water Board has authority to act on NID's September 10, 2020 petition for reconsideration after the 90-day period set by Section 13330 of the California Water Code. In entering into this stipulation, NID does not waive any argument or right related to the State Water Board's authority or jurisdiction to act on the petition for reconsideration or to the validity of any new or revised water quality certificate issued by the State Water Board in the future;

1 WHEREAS the parties now seek to extend the deadline for Defendant's responsive
2 pleading by 120 days to June 2, 2024;

3 THEREFORE, the parties by and through their respective counsel, stipulate as follows:

- 4 1. Defendant's responsive pleadings will be due June 2, 2024.
- 5 2. In the event that the State Water Board acts on NID's administrative petition for
6 reconsideration, this stipulation serves as Defendant's written consent to allow NID
7 to amend the First Amended Complaint pursuant to Federal Rule of Civil Procedure
8 15(a)(2), but without prejudice to Defendant to move to dismiss any Second
9 Amended Complaint;
- 10 3. This stipulation may be executed in counterpart originals and by facsimile or
11 electronic signature, each of which shall be deemed to be an original, and all of
12 which shall constitute one and the same document.

1 Dated: January 26, 2024

VAN NESS FELDMAN LLP

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4 /s/ Jenna R. Mandell-Rice
JENNA R. MANDELL-RICE
5 *Attorneys for Plaintiff*
6 *Nevada Irrigation District*

7 Dated: January 26, 2024

ROB BONTA
Attorney General of California
8 ERIC M. KATZ
9 Supervising Deputy Attorney General

10
11 /s/ Jennifer Kalnins Temple
JENNIFER KALNINS TEMPLE
12 Deputy Attorneys General
13 *Attorneys for Defendant Eric Oppenheimer*
14 *in his official capacity as Executive Director*
15 *of the State Water Resources Control Board*

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17 **ORDER**

18 Based on the parties' stipulation, Defendant's responsive pleading will be due June 2, 2024.
19 IT IS SO ORDERED.

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21 Dated: January 26, 2024

/s/ Daniel J. Calabretta
22 THE HONORABLE DANIEL J. CALABRETTA
23 UNITED STATES DISTRICT JUDGE
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